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LUCCHESI *v.* COMMONWEALTH.

Jan. 24, 1918.

[94 S. E. 925.]

**1. Intoxicating Liquors (§ 200\*)—Indictment—Sufficiency—Elements and Incidents of Offense.**—An indictment on three counts for violation of the prohibition law by unlawful transportation of intoxicating liquors examined, and held sufficient under Acts 1916, c. 146, § 39.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 24.]

**2. Criminal Law (§ 393 (2)\*)—Evidence—Competency—Articles Taken from Accused.**—Evidence that a suit case, seized while in the possession of defendant when arrested, and opened after a warrant was issued charging him with violation of the law regulating the transportation of ardent spirits, contained liquor, is admissible.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 83, 85.]

**3. Intoxicating Liquors (§ 236 (1)\*)—Criminal Prosecutions—Weight and Sufficiency of Evidence.**—Evidence in a prosecution for unlawful transportation of ardent spirits examined, and held sufficient to convict under Acts 1916, c. 146, § 39, prohibiting the transportation of more than one quart in personal baggage.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 24.]

**4. Statutes (§ 114 (6)\*)—Subject in Titles of Acts—Constitutional Requirements—Liquor Law.**—The prohibition law (Acts 1916, c. 146) does not violate constitutional provision that no law shall embrace more than one object, which shall be expressed its title, as failing to embrace the offense of unlawful transportation, since the title indicates the general purpose to prohibit the manufacture, use, sale, and transportation for sale, etc., of ardent spirits, and a single act may embrace the entire law on one general subject.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 752.]

**5. Statutes (§ 105 (1)\*)—Subject and Titles of Acts.**—There should be liberal construction of the title to uphold the statute, if practicable.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 751.]

**6. Constitutional Law (§ 241\*)—Intoxicating Liquors (§ 17\*)—Equal Protection of Law—Prohibition.**—The prohibition law (Acts 1916, c. 146) is not in violation of Const. U. S. Amend. 14, as discriminating between corporation carriers and individual carriers; its restrictions being equally applicable to all transporting ardent spirits.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 202; 8 Va.-W. Va. Enc. Dig. 6.]

**7. Criminal Law (§ 444\*)—Evidence—Letters—Identification as Genuine.**—Letters sought to be introduced in evidence by defendant

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

to support his claim of employment in another state were properly refused when not identified as genuine.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 763.]

**8. Criminal Law (§ 1137 (3)\*)—Invited Error—Requested Instructions.**—Where in a prosecution for violation of a law prohibiting transportation of ardent spirits the defendant offered an instruction which referred to unnecessary matter, and which the court inadvertently gave, he cannot complain.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 608.]

**9. Intoxicating Liquors (§ 224\*)—Evidence—Defense—Burden of Proof.**—The burden of proving his defense that he was transporting liquor in interstate commerce rather than in violation of state statute was upon defendant.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 33.]

**10. Criminal Law (§ 778 (5)\*)—Instructions—Burden of Proof.**—Under Acts 1916, c. 146, § 39, a traveler cannot carry more than one quart of ardent spirits in his personal baggage, and an instruction that, where more was found in the possession of the accused, the burden shifted to accused to prove the transportation lawful, while surplusage in the instant case, added no burden to the defendant.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 737.]

**11. Criminal Law (§ 789 (4)\*)—Instructions—Reasonable Doubt.**—An instruction on reasonable doubt in a prosecution for violation of law prohibiting transportation of ardent spirits examined, and held proper.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 734.]

**12. Intoxicating Liquors (§ 17\*)—Prohibition—Transportation within State.**—The state has plenary power to prohibit the importation of ardent spirits into the state for any purpose.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 6.]

**13. Criminal Law (§ 1159 (2)\*)—Review—Evidence—Sufficiency to Support Conviction.**—The jury has the right to discredit the testimony of the accused and where the issue was fairly submitted, and the evidence sufficient, the verdict will not be disturbed.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 620.]

Error to Hustings Court of City of Richmond.

*Joseph Lucchesi* was convicted of violation of the prohibition law, and he brings error. Affirmed.

*L. O. Wendenburg*, of Richmond, for plaintiff in error.

*The Attorney General*, for the Commonwealth.

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.